

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1279 be amended to read as follows:

- 1 Page 14, line 17, delete "or".
- 2 Page 14, line 23, delete "IC 8-1-29.5." and insert "**IC 8-1-29.5; or**".
- 3 Page 14, between lines 23 and 24, begin a new line block indented
- 4 and insert:
5 "**(7) the commission's authority to investigate and resolve**
- 6 **pursuant to IC 8-1-2-5 an interconnection not governed by**
- 7 **federal law.**".
- 8 Page 26, line 20, delete "UPON PASSAGE]" and insert "MAY 1,
- 9 2006]".
- 10 Page 27, line 18, delete "section," and insert "**chapter,**".
- 11 Page 27, line 23, delete "or residential".
- 12 Page 27, line 24, delete "apartment buildings, condominiums,"
- 13 Page 27, line 25, delete "subdivisions,".
- 14 Page 27, line 25, delete "buildings," and insert "**buildings**".
- 15 Page 27, line 25, after "." insert "**The term does not include**
- 16 **apartment buildings, condominiums, or subdivisions.**".
- 17 Page 28, line 11, delete "A" and insert "**After April 30, 2006, a**".
- 18 Page 28, line 30, after "." insert "**This section may not be**
- 19 **construed to affect the validity of a contract entered into before**
- 20 **May 1, 2006.**".
- 21 Page 30, between lines 16 and 17, begin a new paragraph and insert:
- 22 "**Sec. 15. (a) Except as provided in subsection (b), the owner,**
- 23 **operator, or developer of multitenant real estate located in a service**
- 24 **area in which one (1) or more communications service providers**
- 25 **are authorized to provide communications service may not do any**

of the following:

(1) Prevent a communications service provider from installing on the premises communications service equipment that an occupant requests.

(2) Interfere with a communications service provider's installation on the premises of communications service equipment that an occupant requests.

(3) Discriminate against a communications service provider or impose unduly burdensome conditions on the terms, conditions, and compensation for a communications service provider's installation of communications service equipment on the premises.

(4) Demand or accept an unreasonable payment from:

(A) an occupant; or

(B) a communications service provider;

in exchange for allowing the communications service provider access to the premises.

(5) Discriminate against or in favor of an occupant in any manner, including charging higher or lower rental charges to the occupant, because of the communications service provider from which the occupant receives communications service.

(b) This section does not prohibit the owner, operator, or developer of multitenant real estate from doing any of the following:

(1) Imposing a condition on a communications service provider that is reasonably necessary to protect:

(A) the safety, security, appearance, or condition of the property; or

(B) the safety and convenience of other persons.

(2) Imposing a reasonable limitation on the hours during which a communications service provider may have access to the premises to install communications service equipment.

(3) Imposing a reasonable limitation on the number of communications service providers that have access to the premises, if the owner, operator, or developer can demonstrate a space constraint that requires the limitation.

(4) Requiring a communications service provider to agree to indemnify the owner, operator, or developer for damage caused by installing, operating, or removing communications service equipment on or from the premises.

(5) Requiring an occupant or a communications service provider to bear the entire cost of installing, operating, or removing communications service equipment.

(6) Requiring a communications service provider to pay compensation for access to or use of the premises, as long as the compensation is:

- 1 (A) reasonable; and
- 2 (B) nondiscriminatory;
- 3 among communications service providers.
- 4 (c) For purposes of this subsection, an "affected person"
- 5 includes the following:
- 6 (1) An occupant that is a current or potential subscriber of
- 7 communications service on the premises of multitenant real
- 8 estate.
- 9 (2) A unit in which multitenant real estate is located, acting on
- 10 behalf of:
- 11 (A) a person described in subdivision (1); or
- 12 (B) other similarly situated persons.
- 13 (3) A communications service provider.

14 An affected person that alleges a violation of this section by the
 15 owner, operator, or developer of multitenant real estate may seek
 16 equitable or compensatory relief in a court having jurisdiction. The
 17 party prevailing in any action filed under this section is entitled to
 18 recover the costs of the action, including reasonable attorney's fees
 19 as determined by the court.

20 Sec. 16 (a) The commission may not require a communications
 21 service provider, including a provider of last resort, to provide any
 22 communications service to the occupants of multitenant real estate
 23 if the owner, operator, or developer of the multitenant real estate
 24 does any of the following to the benefit of another communications
 25 service provider:

- 26 (1) Permits only one (1) communications service provider to
- 27 install the provider's facilities or equipment during the
- 28 construction or development phase of the multitenant real
- 29 estate.
- 30 (2) Accepts or agrees to accept incentives or rewards that:
- 31 (A) are offered by a communications service provider to
- 32 the owner, operator, developer, or occupants of the
- 33 multitenant real estate; and
- 34 (B) are contingent upon the provision of communications
- 35 service by that provider to the occupants of the multitenant
- 36 real estate, to the exclusion of any services provided by
- 37 other communications service providers.
- 38 (3) Collects from the occupants of the multitenant real estate
- 39 any charges for the provision of communications service to the
- 40 occupants, including charges collected through rent, fees, or
- 41 dues.
- 42 (4) Enters into an agreement with a communications service
- 43 provider that is prohibited by section 14 of this chapter.
- 44 (b) This subsection applies to a communications service provider
- 45 that is relieved under subsection (a) of an obligation to provide
- 46 communications service to the occupants of multitenant real estate.

1 **This section does not prohibit the communications service provider**
2 **from voluntarily offering service to the occupants of the**
3 **multitenant real estate. However, the commission shall not exercise**
4 **jurisdiction over the terms, conditions, rates, or availability of any**
5 **communications service voluntarily offered by a communications**
6 **service provider under this subsection."**

7 Page 30, line 17, delete "15." and insert "17."

(Reference is to HB 1279 as printed January 20, 2006.)

Representative Murphy